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1791

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of

Takeshi Kamio, et al.

Serial No.: 09/987,404

Group Art Unit: 1791

Filing Date: November 14, 2001

Examiner: John M. Hoffmann

For: METHOD FOR SINTERING POROUS-GLASS MATERIAL, AND METHOD
FOR MANUFACTURING PREFORM AND OPTICAL FIBER

Honorable Commissioner of Patents
Alexandria, Virginia 22313-1450

PETITION TO ENTER REPLY BRIEF UNDER 37 C.F.R. § 1.181

Sir:

In response to Appellants' Reply Brief, filed on June 30, 2008, the Examiner issued a paper indicating that the Reply Brief was not entered, for allegedly failing to comply with 37 C.F.R. § 41.41 (a). Having filed a Request for Reconsideration of Appellants Reply Brief on Appeal on August 11, 2008, and receiving the Examiner's communication dated December 8, 2008, again refusing to enter the Reply Brief, Applicant hereby Petitions for entry of the Reply Brief.

The Examiner alleged that the Reply Brief included new evidence. Specifically, the Examiner alleged, "[o]n page 3 of the reply brief- in Table 3-there is an attempt to rely on proportions of prior art drawings. However, until, now Examiner was not permitted to use such as evidence." (See Patent Office Communication dated July 9, 2008). The Examiner, however, is clearly incorrect.

That is, the Reply Brief merely includes a discussion of the references applied by the Examiner. Specifically, Appellants provided a discussion of Ishikawa (U.S. Patent No. 5,306,322) in response to the Examiner's allegations. Indeed, the Examiner applied this reference.

The Examiner alleges that the "Examiner was not permitted to use such as evidence."
The Examiner, however, applied Ishikawa and had every opportunity to use the drawings of
Ishikawa as evidence.

Accordingly, Appellants respectfully submit that the Reply Brief should be entered and
considered by the Board of Patent Appeals and Interferences.

Please charge any deficiencies in fees and credit any overpayment of fees to Attorney's
Deposit Account No. 50-0481.

Respectfully submitted,



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